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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,209	03/26/2004	Yehiel Gotkis	LAM2P466	8664
25920	7590	10/05/2005	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			ALANKO, ANITA KAREN	
		ART UNIT	PAPER NUMBER	
		1765		

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/810,209	GOTKIS, YEHIEL	
	Examiner	Art Unit	
	Anita K. Alanko	1765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 9/21/05 election by telephone.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 31-41 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 September 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/26/04;9/6/05</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-30, drawn to a method, classified in class 216, subclass 88.
- II. Claims 31-40, drawn to an apparatus, classified in class 156, subclass 345+.
- III. Claim 41, drawn to computer readable media, classified in class 700, subclass 90.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used for a different process such as mapping a substrate that is not configured to spin.

Inventions I,II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different effects, in that the method or apparatus can be conducted without computer control.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Albert Penilla on September 21, 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-30. Affirmation of this election must be made by applicant in replying to this Office action. Claims

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31-41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The step of “generating a map” is unclear. Does the map represent the complete substrate surface or only a plurality of points? Does the map represent the thicknesses of the substrate, or is something else mapped? The metes and bounds of the claims are unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by David (US 2005/0042975 A1).

David discloses a method comprising:

spinning a substrate 10 having a film ([0017]-[0018]);

scanning an optical sensor 140 and an inductive sensor 150 across a path along a surface of the substrate ([0019], Fig.2A-2D);

sensing properties of the film with the optical and inductive sensors at a plurality of points along the path ([0020] data traces) and

generating a map of the film using information from the plurality of points along the path (by display 94 [0021] of, for example, a radial thickness profile [0051]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sarfaty et al (US 6,608,495 B2) in view of Caton et al (US 2005/0046874A1).

Sarfaty discloses a method comprising:

spinning substrate 150 having a film 151 (Fig.4, col.4, lines 15-17);

scanning an optical sensor 140 and an inductive sensor 120 across a path along a surface of the substrate (col.4, lines 20-36);

sensing properties of the film with the optical and inductive sensors at a plurality of points along the path (col.3, lines 36-39, 50-60).

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Sarfaty fails to disclose to generate a map. Caton teaches that it is useful to generate a map of a film ([0070]-[0071]) using information from the plurality of points ([0045], Fig.5) along the path from an optical 140 and inductive sensor 132 ([0032]) representing a thickness profile ([0033]). It would have been obvious to one with ordinary skill in the art to generate and graphically display a map of the film in the method of Sarfaty because Caton teaches that this is useful for improved product consistency, verification of product quality and to reduce costs of manufacture.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited to teach methods that use optical and inductive sensors, for example, Kimura (Fig.6B), Kohmura et al (Fig.24-25, col.19-20) and Katsuoka et al (col.22, line 6+).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita K. Alanko whose telephone number is 571-272-1458. The examiner can normally be reached on Mon-Fri until 2:30 pm (Wed until 11:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on 571-272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anita K. Alanko

Anita K Alanko
Primary Examiner
Art Unit 1765